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## IN THE UNITED STATES DISTRICT COURT

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## FOR THE NORTHERN DISTRICT OF CALIFORNIA

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ANTHONY ALLARA,

No. C 08-3027 WHA (PR)

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Petitioner,

**ORDER OF TRANSFER**

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vs.

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OLD FOLSOM[] STATE PRISON  
and SACRAMENTO COUNTY JAIL,

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Respondents.

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This case was opened when petitioner filed a form petition for a writ of habeas corpus.

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The grounds for habeas relief which petitioner has provided involve allegations of physical abuse, so it is possible that he actually intended to file a civil rights case, but it makes no difference to venue which of these he intended.

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Petitioner was convicted in Sacramento County, which is in the Eastern District of California, and the alleged physical abuse occurred at Old Folsom State Prison and at the Sacramento County Jail, both of which also are in the Eastern District. If petitioner intended this to be a habeas challenge to his conviction, the preferable venue would be the Eastern District, *see* Habeas L.R. 2254-3(a); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968) (petitions challenging a conviction are preferably heard in the district of conviction), and if he intended it to be a civil rights case, the correct venue be the same – the Eastern District, *see* 28 U.S.C. § 1391(b). Only if the case involved a challenge to the execution of petitioner's

1 sentence, which it patently does not, would this district be the preferable venue. *See* Habeas  
2 L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

3 For these reasons, this case is **TRANSFERRED** to the United States District Court for the  
4 Eastern District of California. *See* 28 U.S.C. § 1404(a). Because of the transfer, the court has  
5 not ruled on the motion to proceed in forma pauperis.

6 **IT IS SO ORDERED.**

7 Dated: August 22, 2008.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY ALLARA,

Case Number: CV08-03027 WHA

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

OLD FOLSOM STATE PRISON, et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 25, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Allara  
K-60159/ DMH A-1-31  
Salinas Valley State Prison  
PO Box 1050  
Soledad, CA 93960

Dated: August 25, 2008

Richard W. Wiking, Clerk  
By: D. Toland, Deputy Clerk